

Suggested Policy and Format. Agency Specific policies should be developed in consultation with agency legal counsel, Board of Directors and appropriate regulatory agencies.

AGENCY RECORDS MANAGEMENT POLICY

These procedures are intended to ensure the safekeeping of AGENCY records with administrative, legal, fiscal, programmatic or historical value; provide ease of access to AGENCY records by staff; provide ease of access to AGENCY records by members of the public in accordance with AGENCY's Public Records Request Guidelines; and provide the necessary guidance to ensure proper records management, including retention and disposition.

AGENCY's records are a valuable resource. This policy provides procedures to ensure AGENCY's records are maintained in a consistent, orderly, secure and accessible manner.

Procedures

1. Policy Statement

- 1.1 Records kept by a AGENCY employee because they are necessary or convenient to the discharge of that employee's duties for AGENCY are public records. Any and all records generated in the course of AGENCY business are the property of AGENCY. These records include, but are not limited to, correspondence, memoranda, emails, phone logs, reports, maps, tapes, contracts, project files, photographic files, digital imagery data, prints, charts, drawings, machine-readable records, videos, and audio tapes. Persons to whom this policy applies should pay particular attention when using e-mail or other less formal forms of communication to ensure that matters discussed are handled with due care and reviewed for professionalism, accuracy and objectivity as they are discoverable public records that can be used as evidence in litigation.
- 1.2 Records must be maintained in accordance with the AGENCY Records Retention Schedule until their retention period expires, after which the records should be disposed of promptly and appropriately. The periods shown in the Records Retention Schedule are minimum time periods that do not start until the document and/or project is complete. Records can be maintained for time periods in excess of the retention period in the schedule if the records are still needed for reference.

2. Application

This policy applies to all persons, including employees, consultants, and contractors,

responsible for the generation and/or maintenance of AGENCY records.

3. Public Records

- 3.1 Records that pertain to “housekeeping” matters that will not be needed for future reference may be disposed of immediately. For example, preliminary drafts, notes, and interagency and intra-agency memoranda that have been retained for less than 60 days and that are no longer needed for use or reference should be disposed of immediately. All records that are kept for more than 60 days for use or reference by an employee must be treated as a public record. All public records must be kept for a minimum of two years after the date they are finalized. Some records must be kept for longer than two years and the retention period for most records is contained in the Records Retention Schedule. The time periods shown in the Records Retention Schedule should be followed unless a document needs to be retained for a longer time period than that shown because the custodian believes the record is still needed for reference. All of the time periods shown for retention begin on the date the record is put in its final form.
- 3.2 Records that are purely personal in nature such as shopping lists, personal email, or correspondence from a friend should not be treated as public records. In order to prevent a claim that such records are subject to disclosure, and to prevent an unnecessary burden on AGENCY resources, however, records unrelated to AGENCY business should be purged from AGENCY computers and files.
- 3.3 After a public record has been maintained for the required time period it should be disposed of promptly. If records contain confidential or trade secret information, steps should be taken to ensure the records are not disclosed when they are destroyed.
- 3.4 The Records Retention Schedule will be reviewed and revised as needed every three years
- 3.5 Records may be kept in electronic form instead of hardcopy form if the following conditions are met:
 - 3.5.1 The media on which the electronic form of the record is kept does not permit additions, changes, or deletions of the information or image in or on the original record.
 - 3.5.2 The media selected for storing the records in electronic form is

considered permanent and reliable.

3.5.3 The media selected for storing the records in electronic form does not prevent the records from being easily accessible.

3.5.4 The copy must be kept in a safe and separate place for security purposes.

3.6 Retention periods for records required for current litigation, audit, or environmental review must be suspended and the records maintained in their original condition and format until the matter is resolved.

3.7 Duplicates of hardcopy records may be destroyed at any time as long as at least one accurate and legible copy is maintained for the time period set forth in the Records Retention Schedule.

4. Project File Maintenance

The project manager(s) for a project and Procurement personnel (“project team members”) should maintain centralized files for each project. The project files should not contain preliminary drafts, working papers, notes, or “housekeeping” memoranda or emails that are not needed for future use or reference (as these records should be discarded if they are less than 60 days old). The project team members should keep the following documents in centralized files:

- Project authorization
- Original purpose and justification documentation
- Project team responsibilities and goals
- Budget and source of funding documentation
- Schedules
- Work Products
- Consultant/Contractor deliverables
- Final project evaluation
- A list of the names and job positions of the members of the evaluation committee
- Conflict of Interest Declarations from outside evaluators
- The evaluation forms and score sheets for all proposers
- Any protests or other complaints filed with AGENCY concerning the contract award, and any responses thereto
- Correspondence with proposers and potential proposers
- Questions from proposers and AGENCY’s responses
- Notices and correspondence with the selected consultant/contractor
- The RFP and/or RFQ
- Independent Cost Estimate
- Sole source approval forms (if necessary)
- Written approval of funding source (if necessary)

- Copy of Board Resolution (if necessary)
- Mailing list for RFP/RFQ
- Copies of newspaper advertisements
- The recommendation memo and approval to begin contract negotiations
- Notice of Intent to Award
- Notices of Intent to Proceed with Another Proposer
- Copy of selected consultant's proposal
- Cost Analysis (if applicable)
- Any record of negotiations
- The negotiated agreement with all exhibits
- Amendments to the agreement
- Certificates of Insurance
- Pre-award audit request and audit results documentation
- Notice to Proceed
- Work Orders or Task Orders
- Notice of Completion
- DBE documentation

Records Containing Confidential or Trade Secret Information

Records created at or received by AGENCY containing confidential or trade secret information must be marked as such and filed in a locked cabinet or other location where the records will be secure and inaccessible to third parties. Staff should take all necessary steps to ensure that such records are not copied or disclosed to third parties. Once a record is submitted to AGENCY by a company or individual it immediately becomes a public record unless that party has expressly designated the record or portion thereof as confidential, proprietary, or trade secret. For example, unless a proposal or price list from a consultant or contractor is clearly marked as confidential or trade secret it will automatically become a public record. Note, however, that even if a consultant or contractor marks a document as "confidential," "proprietary," or "trade secret" this will not necessarily exempt the document from disclosure under the California Public Records Act or other applicable laws.

5. Public Records Requests

5.1 Generally, the following types of records can be provided to persons based on a simple verbal request to a staff member:

- Bound AGENCY reports
- Information bulletins
- Fact sheets
- Board agendas, resolutions, and reports
- Committee agendas and reports
- Letters in support of, or opposition to, bills

5.2 Requests from members of the public for compilations of AGENCY records, a large number of copies, or records that contain confidential or sensitive information should be referred to the Executive Director. If the following types of records are requested, the staff member should refer the request to the Executive Director:

- Requests for all records of a certain type or category
- Requests for compilations of data
- Requests for accounting or financial records
- Requests for records containing trade secret, confidential, or proprietary information or marked “confidential” or “trade secret” or “proprietary”
- Requests for records containing social security numbers or private individual’s phone numbers or addresses
- Requests for copies of proposals and/or cost estimates from proposers
- All written requests for AGENCY public records referring to the California Public Records Act or the federal Freedom of Information Act
- All requests from attorneys for records

5.3 The above list is not exhaustive. If a staff member is unsure whether a particular type of record should be released, the staff member should refer the request to the Executive Director who will prepare an appropriate response.

5.4 Timing on responses to public record requests is very important. Under the law a response must be provided to the requester within ten (10) calendar days. If a staff member is unable to meet this deadline, the staff member should immediately contact the Executive Director.